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TRANSNATIONAL CORPORATIONS IN SOUTH AFRICA AND NAMIBIA: RESPONSIBILITIES OF HOME COUNTRIES WITH RESPECT TO THE TRANSNATIONAL CORPORATIONS OPERATING IN SOUTH AFRICA AND NAMIBIA IN VIOLATION OF THE RELEVANT RESOLUTIONS AND DECISIONS OF THE UNITED NATIONS

Measures relating to trade, finance, investment and technology transfers to South Africa

Report of the Secretary-General

SUMMARY

Approximately 600 transnational corporations, their independently operating subsidiaries or their affiliates have disinvested from South Africa in the period between 1 January 1984 and 31 December 1989. The major factors responsible for the recent disinvestments are measures of double taxation of profits and selective purchasing.

Measures imposed by transnational banks have had the greatest immediate impact. Notwithstanding the recent debt rescheduling, the South African Government will have to continue to impose restrictive domestic economic measures in order to achieve large trade surpluses to offset debt repayments. In the context of the very rapidly growing labour force, this requirement constitutes one of the most important pressures on the Government.

* E/C.10/1990/1.

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INTRODUCTION

1. The present report reviews the responsibilities of home countries with respect to transnational corporations operating in South Africa and Namibia in violation of the relevant resolutions and decisions of the United Nations. The report has been prepared in response to resolution 1989/27 of the Economic and Social Council.

2. The report reviews measures relating to the activities of transnational corporations in three areas: international trade, disinvestment and technology transfer and foreign finance. These measures include not only legally binding obligations but also decisions which have a "moral suasion" dimension. The report also refers to proposed measures or bills which await legislative approval and which have not yet been enacted into laws.

3. A recent assessment of the impact of sanctions is provided in the report and recommendations of the Panel of Eminent Persons established to conduct the second public hearings on the activities of transnational corporations in South Africa and Namibia, held in Geneva from 4 to 6 September 1989 (A/44/576; S/20867 of 2 October 1989).

I. OVERVIEW

4. Developments in South Africa were at the forefront of world attention in 1989. Prompted by the increasingly uncertain political situation, public opinion and the impact of sanctions, the number of transnational corporations disinvesting from South Africa continued to rise. By year-end, approximately 600 transnational corporations, their independently operating subsidiaries or their affiliates had disinvested from South Africa.

5. A few new measures were adopted by Governments and intergovernmental organizations in the period, but the main impetus was at the subnational level as local authorities in several countries enacted restrictive measures concerning their relations with transnational corporations that still maintain economic ties with South Africa.

6. The expediency of financial sanctions, seen in 1985, was again in evidence as the rescheduling of South Africa's debt was renegotiated. Pressure on transnational banks to impose onerous terms for repayment under the next interim agreement was dissipated, however, as a secret agreement was announced in October 1989, seven months in advance of the due date. The price of gold also seemed to be giving South Africa a temporary reprieve to its immediate financial problems: following a nearly two-year decline, it exceeded $400 an ounce at the end of 1989.

7. The moderation in new host country measures evident in 1989 has provided additional respite on the political front. But it could give way to a new round of more intensified measures in mid-1990, if actions by the new Government of South Africa towards meeting the pre-conditions for a negotiated end to apartheid are

judged inadequate by the international community. Conditions for negotiation are stated in General Assembly resolution 44/27 B of 22 November 1989 and in the General Assembly Declaration on South Africa adopted on 14 December 1989.

8. The above notwithstanding, the current financial measures imposed by transnational banks mean further continuous capital outflows. Assuming no significant long-term increase in the world gold price, South Africa will be compelled to continue to impose restrictive domestic economic measures in order to run a substantial surplus on the current account of its balance of payments. In the context of the very rapidly growing labour force, this requirement constitutes one of the most important pressures on the South African Government.

9. According to the South African Reserve Bank, real average incomes today are 15 per cent lower than they would have been without sanctions and disinvestment. The South African economy registered a real growth rate below 2 per cent in the 1980s. With a population growth rate of 2.5 per cent per year, average real incomes have been falling in the decade 1980-1990.

II. MEASURES RELATING TO TRADE, FINANCE, INVESTMENT AND TECHNOLOGY TRANSFERS TO SOUTH AFRICA

10. The United Nations first called on Member States to adopt economic measures against South Africa with a view to achieving the abolition of apartheid and terminating the illegal occupation of Namibia through peaceful means in the 1960s. The General Assembly called for an embargo on oil exports in 1963, and the Security Council imposed a mandatory embargo on the export of arms and nuclear weapons in 1977. In 1985, the Security Council called for a voluntary ban on new investments, export loan guarantees, sale of Krugerrands, new nuclear contracts and sales of computer equipment. Over the years, the Economic and Social Council has called on home Governments of transnational corporations owning or operating in South Africa to adopt the necessary measures to put an end to such activities. 1/

11. Home country measures have concentrated predominantly on trade in specific goods and new equity investments. More recently, these have been complemented by restrictions on transfers of technology, other services, such as transportation, and private loans. In past years, Governments have also endorsed the adoption of codes of conduct relating to the practices of subsidiaries of transnational corporations operating in South Africa.

12. The following review focuses on current measures in the areas of trade, investment and technology transfer, and finance. A comprehensive review is provided in the background paper prepared for the second public hearings (E/C.10/AC.4/1989/4).

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A. International trade

13. With virtually no new capital inflows other than replacement or roll-over credits, South Africa relies on trade surpluses to offset debt repayments and other capital outflows. The trade surplus averaged 14.5 billion rand per year in 1985-1987, but it fell below 12 billion rand in 1988 (see table 1).

Table 1. South African foreign trade a/

(Millions of rand)

	1985	1986	1987	1988
Exports	35 925	41 767	42 938	51 094
Imports, fob	23 045	25 514	28 320	39 170
Balance	12 880	16 253	14 618	11 924

Source: South African Reserve Bank.

a/ Figures include Namibia.

14. None of the country's major trading partners has so far adopted comprehensive mandatory trade sanctions. As a result, South Africa has been able to continue to meet many of its basic trading needs. Tables 2 and 3 give an overall picture of the main exports and imports of South Africa. (This information is based on data from the Organisation for Economic Co-operation for Development (OECD) and other sources since, as an anti-sanction measure, South Africa stopped providing a breakdown of its imports and exports by individual countries.)

15. Only the five Nordic countries have imposed a total ban on trade with and investment in South Africa. Moreover, Norway prohibits the transport of oil and other materials on its vessels. In all five Nordic countries, violations of the embargo are punishable by fines and/or imprisonment. Some measures taken by the European Economic Community, the Commonwealth and the United States involve bans on some exports and on new investment. In the United States, an initiative has been taken in the form of a bill, introduced on 3 January 1989 by representative Ronald Dellums, which, if passed, would provide for a near total embargo on trade with South Africa.

Table 2. South Africa's trade in main commodities, 1985-1988

(Millions of rand)

	1985	1986	1987	1988
Imports				
Machinery	6 486	7 304	7 840	12 386
Vehicles, aircraft etc.	2 409	2 958	3 821	5 608
Chemicals	2 371	3 042	3 148	4 195
Base metals	1 182	1 268	1 407	1 923
Textiles	814	907	1 198	1 675
Scientific intsruments	953	1 166	1 421	1 581
Artificial resins & plastics	840	1 137	1 312	1 883
Vegetable products	568	646	548	604
Total including others	22 544	26 851	28 736	39 528
Exports				
Gold	15 460	16 719	17 792	19 622
Mineral products	4 935	4 957	3 869	5 009
Base metals	4 023	4 763	4 696	6 716
Food, drink & tobacco	1 819	2 558	2 613	2 407
Textiles	1 015	986	943	1 314
Chemicals	935	1 184	1 150	1 586
Diamonds	774	998	a/	a/
Total including others	35 478	42 161	42 717	48 801

Source: Economist Intelligence Unit, South Africa: Country Profile, various issues.

a/ Exports of diamonds are no longer quoted separately.

Table 3. South Africa's major trading partners by commodities, 1985 and 1987

(Millions of dollars)

Imports from South Africa	Japan		United States		Federal Republic of Germany		United Kingdom		Italy	
	1985	1987	1985	1987	1985	1987	1985	1987	1985	1987
Food and live animals	90	284	153	4	128	202	194	219	21	44
of which: vegetables and fruit	14	25	52	1	87	154	176	196	7	14
Crude materials, excl. fuels	532	463	225	146	208	232	506	461	169	157
of which: metaliferous ores and scrap	328	253	102	74	99	94	371	337	54	45
Mineral fuels, lubricants, etc.	413	315	81	27	152	103	29	7	262	181
of which: coal, coke & briquettes	410	312	43	-	144	94	27	3	256	171
Animal & vegetable oils, fats etc.	-	1	-	-	-	-	1	2	-	-
Chemicals and related products	64	38	195	56	71	55	18	25	11	16
Manufactured goods	522	920	1 327	1 112	324	432	422	247	139	159
of which: non-metallic mineral manufactures	10	16	299	108	3	4	281	27	3	2
Iron and steel	193	217	294	150	112	143	43	54	39	41
Non-ferrous metals	291	636	652	793	187	243	43	89	50	46
Machinery & transport equipment	1	17	32	38	11	35	75	63	3	8
Miscellaneous manufactured articles	-	-	161	22	6	24	43	55	1	3
others	8	11	65	27	-	37	30	14	1	1
Total	1 631	2 049	2 238	1 432	930	1 120	1 298	1 093	608	569

Exports from South Africa	Japan		United States		Federal Republic of Germany		United Kingdom		Italy	
	1985	1987	1985	1987	1985	1987	1985	1987	1985	1987
Food and live animals	14	12	93	54	8	22	23	43	5	6
of which:										
cereals & cereal preparations	-	-	73	27	1	5	7	11	1	1
beverages and tobacco	-	-	18	18	1	11	57	67	1	-
Crude materials, excl. fuels	15	23	41	46	17	36	17	33	12	20
Mineral fuels, lubricant etc.	9	7	36	13	19	21	11	11	2	2
Animal and vegetable oils, fats etc.	4	1	21	4	2	1	2	3	-	-
Chemicals and related products	49	76	190	242	212	345	260	322	21	35
Manufactured goods	170	192	98	109	178	285	162	198	57	95
Machinery and transport equipment	695	1 448	573	622	1 132	1 660	622	672	196	242
of which:										
specialized industrial machinery	40	69	112	97	131	183	92	99	43	65
general industrial machinery	69	109	86	84	155	184	87	124	45	56
office and data-processing equipment	56	94	125	129	60	67	106	99	27	28
electric machinery	96	102	58	67	105	161	69	85	19	31
road vehicles	327	888	44	41	343	632	99	85	17	16
Miscellaneous manufactured articles	64	97	125	130	110	161	124	184	38	52
Others	1	9	37	57	11	3	2	2	-	4
Total	1 020	1 865	1 232	1 295	1 690	2 545	1 279	1 535	330	456

Source: OECD, Foreign Trade by Commodities (Paris, 1989).

France		Belgium		Spain		Turkey		Netherlands		Canada		Total OECD	
1985	1987	1985	1987	1985	1987	1985	1987	1985	1987	1985	1987	1985	1987
60	107	20	35	14	35	-	-	24	27	52	32	859	1 093
46	86	18	37	10	13	-	-	19	18	31	2	531	613
117	98	60	47	45	47	29	35	32	32	45	18	2 080	1 810
37	19	34	11	14	17	23	27	14	13	37	9	1 173	939
245	48	104	68	112	157	18	35	46	60	-	-	1 490	1 090
243	44	104	68	-	-	18	35	45	59	-	-	1 318	873
1	-	1	-	-	-	-	-	1	2	-	-	4	6
118	165	11	9	3	12	7	16	25	27	6	8	561	462
81	130	150	183	34	61	85	134	17	14	39	33	3 341	3 759
1	1	67	115	-	-	1	1	-	-	-	2	673	411
44	70	10	17	30	46	75	10	4	2	20	16	941	921
29	42	66	47	1	4	5	36	9	4	10	4	1 413	2 032
3	6	3	9	-	2	-	1	6	7	8	7	152	213
2	9	-	3	-	1	-	-	2	4	2	7	224	138
-	-	2	8	-	2	-	-	5	16	3	1	131	114
628	563	350	386	209	317	139	221	158	189	155	106	8 843	8 685

France		Belgium		Spain		Switzerland		Netherlands		Canada		Total OECD	
1985	1987	1985	1987	1985	1987	1985	1987	1985	1987	1985	1987	1985	1987
8	28	4	6	1	2	2	2	15	23	2	10	208	257
3	5	2	3	-	-	-	-	1	2	-	4	100	60
4	5	-	-	-	-	-	-	2	2	-	-	84	99
8	11	3	5	1	3	-	-	10	15	63	34	262	248
3	1	3	3	1	1	-	-	1	1	-	-	86	60
-	-	-	-	-	-	-	-	5	5	-	-	49	16
51	77	39	57	12	22	51	88	75	107	9	6	1 015	1 432
76	90	25	55	18	29	14	22	23	27	15	11	935	1 186
212	225	58	78	48	30	109	116	65	91	19	18	3 894	5 340
28	33	21	30	5	4	28	41	10	16	8	6	566	661
46	44	11	12	8	6	26	23	10	11	2	2	455	686
25	36	10	10	8	9	1	7	17	21	2	3	585	516
37	45	5	6	6	6	28	29	12	22	1	2	459	579
13	6	2	10	1	1	1	-	1	2	2	2	666	1 691
26	29	11	19	7	10	24	44	13	17	4	3	573	772
2	2	40	50	1	2	-	2	1	1	-	5	96	146
389	468	183	273	90	99	199	274	210	289	111	87	7 201	9 553

1. Imports

16. With regard to computers, a vital import into South Africa, the 1985 Commonwealth (Nassau) list of possible actions includes a ban on exports of computers which can be used by the military and police to be implemented by member Governments. Australia and New Zealand banned exports of computer hardware in that year, and Canada's ban on the sale of high-technology goods was extended to cover the private sector in 1988. The European Community imposed a ban in 1985 on sensitive military and police equipment, which has been interpreted to include computers. The Netherlands bans computer exports, and Ireland requires assurances from the South African consignee that the equipment is not destined for the South African security forces. The United States, Austria and Japan also have banned computer exports for use by the military and police; the United States ban also includes data and software transfers to these branches of the apartheid régime.

17. As indicated in table 3, only the United Kingdom, the Netherlands and Turkey reduced their exports of office and data-processing equipment to South Africa. At the same time, Taiwan Province of China has penetrated the South African electronics market, registering an increase of 123 per cent in 1987 over 1986 and an increase of 306 per cent in 1987 over the average for the period 1983-1985. 2/ It should also be noted that in certain cases computers are sent to South Africa through third countries.

18. As regards oil, another vital import essential to the apartheid régime, the Organization of Arab Petroleum Exporting Countries has banned exports of its members' oil to South Africa since 1973. In 1981, this embargo was strengthened by additional measures to include a system of control over all petroleum contracts and by introducing an "end user" clause to ensure that petroleum did not reach South Africa. Algerian law also bans all exports to South Africa, including oil.

19. The Nordic States have collectively pledged to strengthen the oil embargo. Norway and Denmark forbid the transportation of crude oil by their vessels to South Africa and also by any foreign vessel at the disposal of their companies. In 1985, the European Economic Community foreign ministers recommended the prohibition of EEC-produced oil to South Africa. In 1986, this prohibition was expanded to include non-EEC-produced crude oil, although not oil in bonded warehouses in the European Economic Community. It should be noted that the EEC ban does not cover the export of refined products. The Netherlands ban also covers only the export of Dutch North Sea crude oil. Only France and Belgium have extended their bans to include refined products. The United Kingdom exports oil only to countries party to the International Energy Agency import-export agreement, which excludes South Africa. In Luxembourg and Italy, licenses are not granted for oil export to South Africa.

20. The United States Comprehensive Anti-Apartheid Act of 1986 bans exports of crude oil and petroleum products to South Africa. Following the 1985 Commonwealth (Nassau) Accord, Australia has banned the export of oil or petroleum products, and Canada has imposed a voluntary ban. A number of Latin American countries, including Argentina, Brazil, Mexico, Peru and Venezuela, have also prohibited exports or direct transportation of oil or oil products to South Africa. Israel

has banned the sale or transfer of oil and petroleum products to South Africa since 1987. In September 1989, Singapore announced a ban on the carriage of oil to South Africa by Singapore-flagged ships. The export of oil and petroleum products to South Africa from Singapore was also banned.

21. Trade in oil can take various forms, and not all are covered by existing measures. For instance, petrol and fuel feedstocks are not covered by the French ban, while the United Kingdom ban applies only to exports of crude oil. In addition, the Canadian, French and United Kingdom bans do not prohibit storage of oil in transit to South Africa or vessels under that flag from carrying either crude or refined oil to South Africa.

22. It should also be noted that only a few of these bans have been given legislative backing. Action against companies violating the embargo is infrequent, end-user certificates are not widely monitored and penalties for violation are either weak or not imposed. As a result, oil has been flowing freely to South Africa, although at a premium cost. No official data are available, but according to evidence presented at the second public hearings, the cost to the Government of South Africa of obtaining necessary oil supplies may run as high as $2 billion a year. The role of transnational corporations in the continued supply, shipping and handling of oil to South Africa is crucial.

2. Exports

23. The Nordic countries have an embargo which covers virtually all exports from South Africa. The United States Comprehensive Anti-Apartheid Act of 1986 covers most South African exports with the exception of certain strategic minerals. The Commonwealth package covers coal, iron and steel, some strategic minerals and agricultural products. The European Economic Community has imposed a total ban on iron and coal, and Japan has banned most uranium and iron and steel imports from South Africa.

24. Given its role as a reserve in international finance, a ban on the import of gold bullion from South Africa has remained outside the scope of sanctions. However, imports of gold coins from South Africa, especially Krugerrands, are banned by several countries: Australia, Austria, Japan, the United States, the members of the European Economic Community and the Nordic countries.

25. In an initiative to promote the application of gold sanctions, the World Gold Commission in a 1988 report formulated specific proposals, including a ban on gold imports, the release of gold from national reserves and the establishment of a fund to institute training in the techniques of mining and marketing gold. According to that report, the Italian jewellery industry is the largest purchaser of South African gold, buying about one third of South Africa's supplies, which accounts for 14 per cent of the country's export earnings. 3/ As a result of these proposals, a conference to boycott South Africa's gold supplies was held in Italy in early 1989, and since then a number of jewellery manufacturers have been taking steps to switch their source of supply to other gold-producing countries. In the United States there is also an initiative in the United States Congress, led by Senator Edward Kennedy, to impose a boycott of South African gold.

26. Regarding coal, whose exports from South Africa are the country's second largest foreign exchange earner after gold, several countries, namely Australia, Canada, Denmark, New Zealand, Norway, Sweden and the United States, prohibit its import. In the European Economic Community, a decision on coal sanctions has been postponed, according to reports, due to opposition by the United Kingdom and Portugal. In August 1988, the Commonwealth Foreign Ministers Committee declared a ban on coal imports. The United States Comprehensive Anti-Apartheid Act also bans coal imports. The Government of France decided in 1988 not to renew South Africa's coal contracts signed by the national electric utility, Electricité de France, and shipments under existing contracts ceased in 1987. Parastatals based in Ireland, the Netherlands and the United Kingdom do not handle South African coal.

27. All of the OECD countries that are shown in table 3, except the Netherlands and Turkey, reduced their imports of coal from South Africa in the period 1985-1987. However, as a result of new markets in the Far East, led by Taiwan Province of China, South African exports have kept virtually at the level where they were before the imposition of sanctions on coal. Estimates for South Africa's export earnings from coal in 1989 place it between 3.2 billion rand and 3.7 billion rand, which amounts to an increase of more than 30 per cent over the 2.7 billion rand registered for 1988. 4/ Moreover, there are plans to increase the maximum export capacity through the port of Richards Bay to 48 million tons by 1992. 5/

28. The import of other strategic minerals and base metals is banned by Australia, Canada, France and New Zealand. The Nordic embargo allows exemptions by special permission. Japan and the United States ban imports of South African uranium. From among the OECD countries listed in table 3, only Spain and Turkey showed increases in their imports of metaliferous ores and scrap. Thus, it would seem that these measures have been rather effective, at least with regard to South Africa's traditional trading partners. This is in spite of the fact that import restrictions in some countries exempt certain minerals which may be in short supply and can only be obtained from South Africa.

29. As regards agricultural products, a number of countries have banned the import of such products, including the Nordic countries, which have a general trade ban, the Commonwealth countries, Ireland and the United States. However, from among the OECD countries reported in table 3, only the United States, the Netherlands and Canada reduced their imports of fruits and vegetables in the period 1985-1987. A major gap in the existing measures is that they do not normally cover wine, which is a significant South African export.

30. Among South African manufactured goods, imports of iron and steel have been banned in a number of countries, including the United States, Japan, some Commonwealth members and the members of the European Economic Community. However, the United States ban excludes ferro-alloys, as well as iron and steel containers. The European Economic Community ban covers only pig and cast iron (including scrap), semi-finished bars, rods and sheets. Australia, Canada and New Zealand ban wire imports and, in addition, the latter two countries ban tubes, pipes, tanks, drums and vats. Hong Kong bans ferro-alloys, wire tubes and pipes, but excludes iron ore. Israel in 1987 undertook to keep iron and steel imports at current levels.

31. Somewhat mixed results can be seen from table 3, with the United States, the United Kingdom, the Netherlands and Canada reducing their imports of manufactured goods, while Japan registered a large increase in its imports of manufactured goods, particularly of non-ferrous metals.

32. Policies of selective purchasing have been adopted at the local level in various countries around the world. In the Netherlands, such measures are in effect in 50 local councils, and in the United Kingdom in 70 local councils. However, more recent regulations in the Netherlands prohibit certain local councils from banning South African products or from refusing to carry on transactions with firms linked to South Africa on an individual basis. In the United Kingdom also, recent legislation prevents local councils from boycotting South African products. In contrast, in the United States, a total of 25 states (plus the Virgin Islands), 19 counties and 82 cities have disposed of stock in, withdrawn funds from and/or stopped purchases from companies involved in South Africa. Those "people's sanctions" have caused over $US 20 billion to be divested from companies that do business in South Africa. 6/ New York City also introduced a bill (Intro. No. 1137) which would close the loopholes in laws barring the City from engaging in business with companies operating in South Africa. The bill would also address the right of South African workers and their unions to receive advance notice as companies disinvest from South Africa to comply with sanctions, and the right of employee organizations to negotiate over the terms of withdrawal.

33. Some Governments have banned South African trade promotion activities. Such measures range from banning South African exporters and importers from government trade fairs and exhibits to travel restrictions for South Africans. Australia closed its trade office in Johannesburg in 1985, and Peru, together with a foreign trade association, has instituted a South African desk, the function of which is to recommend alternate sources of trade to importers and exporters of South African goods.

34. The United States Comprehensive Anti-Apartheid Act also prohibits the use of public funds to assist trade with South Africa. The prohibition of government funding for trade promotion with South Africa was also recommended by the 1985 Commonwealth Ministers Accord. The Australian Government in 1985 removed all official facilities for trade with South Africa, and Canada the same year ruled its official export insurance programme inapplicable to transactions with South Africa.

B. Investment and technology transfers

35. Japan is the only country which has an outright ban on all direct investment, imposed since 1969. The Nordic countries ban new investments in South Africa, although they do not require outright disinvestment, but this ban includes technology transfers through patents, licences or manufacturing rights. In August 1988 and February 1989, the Commonwealth Foreign Ministers Committee recommended the prohibition of technology transfers to South Africa in the sectors of arms, oil and computers.

36. In 1986, the European Economic Community banned new investment, to include not only acquisitions but also expanded participation in existing undertakings and loans of more than five years. Italy and Spain implemented the EEC decision in 1987, and Ireland has de facto implemented the EEC decision by instructing its Central Bank to refuse the necessary permits for investments in South Africa. The Government of the United Kingdom has recommended compliance with the ban, while in the Federal Republic of Germany the EEC decision was implemented by a non-binding "gentlemen's agreement" on new investments. Luxembourg has also issued a non-binding directive. Austria banned new investment in 1986. Denmark had already banned new investments as of 1985 in a law that included Namibia and that also covered the leasing of capital goods as a form of investment.

37. The United States Comprehensive Anti-Apartheid Act of 1986 includes a ban on new investment. In 1987, a further provision obligates United States transnational corporations operating in South Africa to pay United States as well as South African taxes on their South African profits. The new disinvestment bill in the United States would, if passed, provide for a complete withdrawal of United States transnational corporations from South Africa. It also proposes to exclude all transnational corporations with interests in South Africa from new exploration franchises for oil, gas and coal. Israel also banned new investments in 1987 but allows for exceptions in the case of agreement by the Ministries of Foreign Affairs and Commerce, together with the Central Bank.

38. As regards indirect investments, Sweden banned such investments in South Africa in 1985. The United States Comprehensive Anti-Apartheid Act of 1986 bans new issues of stocks or bonds of South African companies in the United States. Moreover, this Act prohibits subsidiaries of United States financial firms from underwriting any new share or bond issue by a South African firm.

39. Approximately 600 transnational corporations, their independently operating subsidiaries or their affiliates have disinvested from South Africa in the period between 1 January 1984 and 31 December 1989, of which 314 were United States-based and 136 were United Kingdom-based. The major factors responsible for the recent disinvestments by United States companies are the double taxation of profits and state and local government legislation against doing business with companies with links in South Africa.

40. A common feature among most disinvestment measures is that they permit existing levels of investment, prohibiting only further investments through the new infusion or transfer of capital, or expansion into new activities. Non-equity agreements are also permitted, thereby not affecting the flow of technology through licensing. Moreover, many disinvestment measures do not cover the reinvestment of profits.

C. Foreign finance

41. Measures adopted by many countries in the financial sanctions area initially covered only loans to the South African Government and its parastatals, as well as guaranteed export credits for trade with South Africa. These bans were subsequently extended in the case of some countries to include credits to the private sector.

42. The Nordic countries and Australia prohibit loans and credits to the private sector. The European Economic Community ban on new investments covers long-term loans, namely, longer than five years. The Government of Japan has banned new loans to South Africa since 1974, but because of the wording of the measure, it has been interpreted as a voluntary restraint. The Japanese Government has since renewed its appeals to banks to refrain from lending money to the South African Government. Israel prohibited in 1987 the granting of government loans to South Africa. The United States Comprehensive Anti-Apartheid Act bans loans to the Government of South Africa or to its entities, allowing exceptions for loans for housing, educational or humanitarian activities. It also bans all new loans to the private sector and prohibits United States citizens, regardless of their domicile, from lending money to South African creditors.

43. Measures adopted by the Commonwealth in 1985 cover new loans to the Government of South Africa and to public or private creditors in that country. The 1989 Commonwealth Meeting called on all relevant banks and financial institutions to impose tougher conditions on day-to-day trade financing, specifically by reducing the maximum credit terms to 90 days, and also called on relevant Governments to make trade credits harder to get by taking South Africa "off cover" with official government agencies for official trade credit and insurance purposes. Canada bans loans to the South African Government and has called for a voluntary restraint on new lending by Canadian banks. This has recently been extended to a request not to increase trade credits to South Africa.

44. The Commonwealth countries, with the exception of the United Kingdom, adopted a ban in 1986 on double taxation agreements, and Canada in that year rescinded its agreement with South Africa. In the United States, the Rangel Amendment of 1987 rules out tax credits on taxes paid in South Africa by United States entities or their subsidiaries. The United States also prohibits the South African public sector from having bank accounts in the United States for anything other than diplomatic or consular purposes.

45. The significance of financial sanctions was seen in September 1985 when South Africa called a moratorium on the payment of principal on all debt immediately falling due except for bonds and debt insured by foreign Governments. Since the moratorium, almost no new conventional loans have been made by transnational banks.

46. By March 1986, a committee of banks had worked out an interim agreement to cover South Africa's debt payments through mid-1987. The agreement covered about $10 billion of South Africa's $23.5 billion foreign debt. In return, South Africa agreed to repay 10 per cent, mostly up front, of this $10 billion of principal. In March 1987, the interim agreement was renewed for a three-year period, covering

about $13 billion. South Africa's debt outside the interim agreement requires large payments in 1990 and 1991, with principal and interest due in those two years amounting to over $2 billion each year. In an effort to reduce payments in these two years, South Africa built into the second interim agreement of 1987 an option for banks to convert their debt into 10-year exit loans with a five-year grace period on the repayment of principal (the so-called 1997 option). By the first quarter of 1989, a total of $3.5 billion of the $11 billion falling due on 30 June 1990 had been converted into 10-year exit loans, reducing the economic pressure in 1990.

47. Pressure in the United States on the 13 transnational banks based in five countries which are on the negotiating committee with South Africa has been building to stop the banks from converting debt into 10-year exit loans and to impose onerous terms for repayment under the next interim agreement. These terms would have amounted to a one-year agreement with repayment of 15 per cent of the original amount in that year, that is, $1.65 billion. The transnational banks agreed on 18 October 1989 to a 3 1/2 year rescheduling agreement for the approximately $8.5 billion of South African debt falling due in mid-1990 under the second interim agreement. The rescheduling points to the limitations inherent in non-mandatory sanctions.

48. The new agreement runs for 42 months, from 1 July 1990 to 31 December 1993. During this period South Africa will repay 20.5 per cent of the capital in instalments and retain the option of conversion to long-term debt. At fixed exchange rates, South Africa will, in addition to interest charges, repay approximately $1.6 billion over the 3 1/2 year period. This is comparable with the payments that it has been compelled to make under the current interim agreement. The impact of the agreement is to smooth capital repayments over a longer period than had previously been possible. This is because there will be no capital repayments on the $4 billion that has gone into the 1997 option for the two years beginning 1 July 1990, during which time South Africa has significant bond payments to make - estimated at $1.8 billion. Moreover, the further continuous capital outflows, assuming no significant long-term increase in the world gold price, mean that South Africa will be compelled to continue to impose restrictive domestic economic measures in order to run a substantial surplus on the current account of its balance of payments (see table 4).

49. According to anti-apartheid organizations and observers, increased pressure on South Africa's financial situation would require co-operation (a) by Governments to take South Africa off insurance cover and cease providing official export credits such as those of the Federal Republic of Germany and (b) by the transnational banks to cease converting any more debt under the interim agreements into 10-year exit loans and to decrease or cease supplying trade finance. While the United States Comprehensive Anti-Apartheid Act of 1986 permits short-term trade credits as the only form of lending by United States banks to South Africa, few United States banks have provided such credits. Transnational banks based in other countries have, however, continued to supply trade credits.

Table 4. South African balance-of-payments current account

(Millions of rand)

	Actual 1987	1988	Forecast 1989	1990
Merchandise exports fob	25 146	31 472	38 900	42 900
Net gold output	17 792	19 622	20 140	22 150
Merchandise imports fob	-28 320	-39 170	-45 740	-50 050
Trade balance	14 618	11 924	13 300	15 000
Net services & transfers	-8 466	-8 985	-9 300	-9 500
Current account balance	6 152	2 939	4 000	5 500
Exchange rate (R/$)	2.04	2.27	2.68	2.80

Source: Economist Intelligence Unit, South Africa: Country Report, No. 3, 1989.

D. National monitoring mechanisms

50. A few countries have instituted mechanisms for monitoring compliance with the measures adopted and for reporting procedures. In Sweden, the Board of Trade monitors the activities of subsidiaries of Swedish firms by requiring these firms to report on a consistent basis in order to comply with the provisions of the ban on new investments. Swedish transnational corporations are required to report detailed data on capital transactions between the parent company and its subsidiary, as well as on the conditions of employment of their South African subsidiaries. On the basis of these reports the Board of Trade issues an annual report to the Parliament, which is a public document, along with the companies' report to the Board. In Norway the Act of 20 March 1987 contains a provision calling for the Government to assess compliance and enforcement after the first year of the law's operation. In the United States, the Comprehensive Anti-Apartheid Act calls on the Government Accounting Office to report on the enforcement and status of the Act. The report of the Government Accounting Office also contains information on measures taken by other countries. The Commonwealth's commissioned studies are expected to provide the monitoring of sanctions by its members, as well as by other countries, against South Africa. The Commonwealth has also taken the decision to establish a monitoring unit on South Africa's financial links.

III. CONCLUSIONS

51. Various reasons have been cited for the unwillingness of countries to impose measures restricting activities of transnational corporations in South Africa. As a matter of general policy, many countries are reluctant to restrict the overseas activities of their private firms. Countries are also reluctant to impose restrictions when others do not, knowing that if their firms are deprived of market share, then that share will certainly be taken by firms from other countries. In other cases, the immediate costs of imposing sanctions are considerable. Even policy makers who believe that sanctions are effective and desire the abolition of apartheid may find it very difficult to impose them, economically as well as politically.

52. In spite of these difficulties, however, many countries have moved to impose economic measures against South Africa. The international anti-apartheid movement, led by individual citizens and non-governmental organizations, has been a powerful catalyst.

53. International measures against South Africa have a wide range and scope. The oil and arms embargoes have been in force for a long time. While oil continues to reach the country in ample quantities, and South Africa has built up an armaments and oil industry of its own, the costs incurred have been high. Apart from hefty outlays for illicit imports, South Africa has no comparative advantage in the production of either guns or oil from coal or gas; the economy will be required to carry the costs of these uneconomic investments for many years to come.

54. An increasing number of transnational corporations, most of them based in the United States, have disposed of their South African investments. While many have retained non-equity links which allow for technology transfers to continue, there is evidence to suggest that (a) the departure of the big corporations has had a psychological impact on South African public opinion; (b) disinvestment, in the longer term, and in the context of other sanctions, will cut South Africa off from the new technology and management expertise that are essential for sustained growth; and (c) firms no longer involved in South African business cease to be active in their home countries in resisting further measures against apartheid, thereby increasing the prospect of additional measures.

55. However, in terms of immediate impact, by far the most effective corporate sanctions have been the measures taken by transnational banks in 1985 to cease all new lending to South Africa. Excluded from international financial markets and required to repay significant amounts of commercial debt each year, South Africa has turned into a capital-exporting country at a time when its future development depends upon a high level of domestic investment. Its capital outflows, have amounted to more than $12 billion since 1985 - partly to repay its foreign debt.

56. In order to achieve the trade surplus necessary to make the large annual repayments on its foreign debt, the South African Government has had to curtail imports and domestic investment. These measures have slowed down the economy, lowered living standards of the white population and affected the South African business community's morale. According to the South African Reserve Bank, real

average incomes today are 15 per cent lower than they would have been without sanctions and disinvestment. Taking a long-term perspective, the South African economy registered a real growth rate of 5.8 per cent per year during the 1960s, 3.3 per cent during the 1970s and below 2 per cent in the 1980s. With a population growth rate of 2.5 per cent per year, average real incomes have been falling in the decade.

Notes

1/ For a more detailed analysis of the various existing measures, see the report of the Centre against Apartheid on restrictive measures affecting externally dependent areas of the South African economy (A/44/555 and Corr.1).

2/ See A/44/55, table 4.

3/ World Gold Commission, The Case for a Gold Sanction (London, 1988).

4/ See the Economist Intelligence Unit, Country Report: South Africa, No. 3, 1989, p. 27.

5/ Ibid.

6/ Information received from the African Fund and the American Committee on Africa, 25 January 1990.

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STRENGTHENING THE NEGOTIATING CAPACITY OF DEVELOPING COUNTRIES IN THEIR DEALINGS WITH TRANSNATIONAL CORPORATIONS

Foreign direct investment in Africa and strategies to encourage transnational corporations to respond positively to the improved investment climate

Report of the Secretary-General

SUMMARY

The volume of foreign direct investment (FDI) flows to Africa continues to be rather modest. Apart from significant foreign investment in natural resources, Africa's share of world-wide FDI flows has been substantially less than that of other regions of the world. This situation persists despite the marked liberalization of foreign investment régimes and other measures to improve the investment climate in African countries. The present report analyses FDI flows in Africa on a sectoral basis and the determinants of such flows. It then reviews the measures adopted by African Governments to stimulate investment flows and also the foreign direct investment opportunities that are open to foreign investors. Finally, the report suggests a range of possible additional measures that may be taken by African Governments and international organizations to attract investors to Africa.

* E/C.10/1990/1.

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INTRODUCTION

1. The Economic and Social Council, in resolution 1989/26, requested the Secretary-General to prepare a report containing recommendations on alternative strategies and measures to be taken by African countries to encourage transnational corporations to respond positively to improvements in the investment climate in Africa; the Secretary-General was also requested to upgrade the report on investment of transnational corporations in Africa (A/43/500/Add.2), prepared for the mid-term review of the implementation of the United Nations Programme of Action for African Economic Recovery and Development 1986-1990, to provide detailed and comprehensive coverage of foreign direct investment in Africa on a sector-by-sector basis and to report thereon to the Commission on Transnational Corporations at its sixteenth session. This report has been prepared in response to that request.

2. Foreign direct investment (FDI) flows to Africa have declined significantly in the past 15 years. Africa's share of global FDI stock by transnational corporations substantially declined after the 1960s from about 5 per cent to the region's current global share of around 2 per cent. 1/

3. Africa has been receiving less than 15 per cent of the total flow of foreign direct investment to developing countries. Measured on the basis of total flows into developing countries, Africa's share rose from 10.7 per cent for the period 1975-1980 to 12.7 per cent for the period 1981-1987. Africa's global share improved marginally from 2.5 per cent to 2.9 per cent for the same periods.

4. The general decline of FDI flows to Africa should be viewed in the context of the fact that FDI flows to Africa are heavily concentrated in a few countries. While nine African oil-exporting countries accounted for an average of 34 per cent of the FDI inflows into the region between 1970-1980, this share increased to 80 per cent in 1981-1987, thus leaving only 20 per cent for the remaining 40 countries. Out of the share of the nine oil exporters, Egypt accounted for 65 per cent and Nigeria for about 30 per cent. Table 1 shows the shares of inflows of FDI on a regional and country basis.

5. With the exception of Botswana, all other major FDI recipients among the non-oil exporting countries in Africa, including Côte d'Ivoire, Kenya, Morocco, Zaire and Zambia, registered declines in their FDI inflows (of up to 50 per cent in some cases) between the period 1975-1980 and the period 1981-1987.

6. In order to improve their investment climate, a number of African countries have introduced policy reforms designed to attract more FDI to Africa. In many cases, these reforms have been implemented through the promulgation of new and revised Investment Codes. But the results of these reforms have not yet met the full expectations of the African countries.

Table 1. Inflows of foreign direct investment

(Millions of dollars)

Region/country	1980	1981	1982	1983	1984	1985	1986	1987	1988	1975-1980	1981-1987
ALL COUNTRIES	52 212.2	57 687.7	44 236.7	43 894.4	50 658.9	48 959.9	77 497.8	118 059.7	143 869.9	32 354.6	62 999.3
DEVELOPING COUNTRIES	10 887.0	15 082.3	14 253.3	10 388.7	12 046.5	13 291.9	13 875.0	23 550.9	25 096.5	7 945.9	14 641.2
AFRICA	311.9	1 549.7	1 410.8	1 206.7	1 378.9	2 570.6	1 751.3	2 227.2	2 853.4	816.8	1 727.9
AFRICA'S SHARE IN DEVELOPING COUNTRIES	2.7	10.3	9.9	11.6	11.4	19.3	12.6	9.5	11.4	10.3	11.8
AFRICA'S SHARE IN WORLD (PERCENTAGE)	0.6	2.7	3.2	2.7	2.7	5.3	2.3	1.9	2.0	2.5	2.7
AFRICA OIL EXPORTERS	458.9	1 133.0	1 011.5	1 186.2	1 143.6	2 237.3	1 571.4	1 759.3	2 370.0	781.0	1 434.6
ALGERIA	348.8	13.0	-54.1	0.0	1.0	0.0	5.9	3.9	3.9	165.8	-4.3
ANGOLA	37.4	49.0	115.8	104.3	67.1	19.9	114.0	-30.0	64.0	6.7	62.9
CAMEROON	129.8	135.4	111.4	213.8	17.6	316.3	19.0	12.0	168.0	47.4	117.9
CONGO	40.1	30.9	35.3	56.1	35.0	12.7	22.4	43.4	43.3	13.2	33.7
EGYPT	547.9	752.3	293.7	489.6	728.8	1 177.8	1 217.7	947.8	1 189.4	376.1	801.1
GABON	31.5	54.6	131.8	111.8	8.1	15.1	110.3	89.9	132.5	63.9	74.5
LIBYA	-1 089.4	-744.0	-391.9	-327.1	-16.4	118.8	-177.1	0.5	0.5	-659.2	-219.6
NIGERIA	-739.3	546.0	429.5	353.8	188.6	469.1	195.9	600.0	835.9	163.3	397.5
TUNISIA	234.3	296.0	340.0	183.9	113.8	107.6	63.4	91.8	60.5	103.8	170.9
OTHER AFRICA (non-oil)	770.8	416.7	399.4	20.5	235.3	333.3	179.8	467.9	483.4	535.8	293.3
BENIN	4.3	2.1	0.0	0.0	0.0	0.0	1.0	0.0	0.0	2.7	0.4
BOTSWANA	111.5	88.4	21.1	23.8	62.1	53.6	70.4	113.5	39.9	44.3	61.9
BURKINA FASO	0.0	2.5	2.0	2.0	1.6	-1.4	0.0	0.0	0.0	1.7	1.0
BURUNDI	4.6	11.1	0.9	3.0	1.2	0.5	1.5	1.4	1.2	0.9	2.8
CENTRAL AFRICAN REPUBLIC	5.3	5.8	9.2	4.5	5.1	2.9	8.2	11.9	11.9	6.8	6.8
CHAD	0.0	0.0	0.0	0.0	9.2	53.6	28.2	8.1	8.1	17.1	14.2
COMOROS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	7.6	7.6	0.0	0.0
COTE D'IVOIRE	94.6	32.8	47.5	37.5	3.0	29.1	70.7	68.3	68.3	63.5	41.3
EQUATORIAL GUINEA	0.0	0.0	0.0	1.0	2.0	2.0	6.0	2.0	1.0	0.0	1.9
ETHIOPIA	1.0	0.0	2.0	-3.0	5.0	0.0	-1.0	-3.0	-0.1	0.2	0.0

/...

Table 1 (continued)

Region/country	1980	1981	1982	1983	1984	1985	1986	1987	1988	1975-1980	1981-1987
GAMBIA	0.0	2.1	0.0	0.0	0.0	0.0	0.0	6.8	11.0	2.5	1.3
GHANA	15.6	16.3	16.3	2.4	2.1	5.6	4.3	4.7	4.7	15.7	7.4
GUINEA	1.0	-1.0	0.0	0.0	1.0	1.0	4.0	6.0	5.0	-0.1	1.6
GUINEA-BISSAU	0.0	0.0	0.0	0.0	2.0	1.0	1.0	0.0	1.0	0.0	0.6
KENYA	79.0	14.1	13.0	23.7	10.8	18.1	32.7	67.9	9.4	52.9	25.8
LESOTHO	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
LIBERIA	0.0	0.0	34.8	49.1	36.2	-16.2	-16.5	38.5	38.5	27.4	18.0
MADAGASCAR	-1.0	-1.0	0.0	4.0	9.0	0.0	14.0	3.0	3.0	-1.3	4.1
MALAWI	9.5	1.1	0.0	2.6	0.0	0.5	0.0	0.0	0.0	6.9	0.6
MALI	2.3	3.7	1.5	3.1	4.1	2.8	-8.3	-5.9	0.7	1.6	0.1
MAURITANIA	27.1	12.5	15.0	1.4	8.5	7.0	4.5	1.7	1.7	-4.0	7.2
MAURITIUS	1.2	0.7	1.8	1.6	4.9	8.0	7.4	17.1	23.5	2.8	5.9
MOROCCO	89.8	59.0	79.5	46.0	47.2	20.3	0.0	59.5	84.7	45.2	44.5
MOZAMBIQUE	4.4	0.4	1.9	2.5	-2.9	0.3	0.0	0.0	0.0	0.5	0.3
NIGER	49.1	-6.1	28.3	1.2	1.4	-9.3	0.0	0.0	0.0	30.7	2.2
RWANDA	16.4	18.0	20.8	11.1	15.1	14.6	17.6	17.6	21.1	7.9	16.4
SENEGAL	14.4	34.3	28.0	-34.7	29.1	0.0	0.0	2.0	0.0	17.5	8.4
SEYCHELLES	9.5	10.1	10.0	9.2	9.9	11.7	14.2	19.4	21.2	6.1	12.1
SIERRA LEONE	-18.6	7.5	4.6	1.7	5.8	-31.0	-140.3	39.4	39.4	7.6	-16.0
SOMALIA	0.0	0.0	-0.8	-8.2	-15.0	-0.7	-0.1	-11.4	0.0	2.8	-5.2
SUDAN	0.0	0.0	0.0	0.0	8.8	-2.8	0.0	0.0	0.0	0.0	0.9
SWAZILAND	26.4	38.8	-9.2	1.3	3.8	11.1	20.2	50.6	43.3	24.2	16.6
TOGO	42.3	10.1	16.1	1.5	-9.9	16.7	2.7	2.7	2.7	35.1	5.7
UGANDA	4.0	0.0	2.0	0.0	0.0	-4.0	0.0	0.0	3.0	1.8	-0.3
UNITED REPUBLIC OF TANZANIA	4.6	18.8	17.3	1.5	-8.4	14.5	-7.2	0.0	0.0	4.5	5.2
ZAIRE	109.6	69.6	-2.4	-192.8	-32.4	69.2	5.6	-55.0	-3.0	73.4	-19.7
ZAMBIA	61.2	-38.9	38.6	25.7	17.4	51.8	31.6	31.6	31.6	36.9	22.5
ZIMBABWE	1.6	3.8	-0.7	-2.0	-2.5	2.8	7.5	-30.5	4.0	0.1	-3.1

Source: United Nations Centre on Transnational Corporations, based on International Monetary Fund, Balance of Payments tape, November 1989, and information provided by the OECD Secretariat.

I. FDI FLOWS IN AFRICA

A. Sectoral analysis of FDI flows

1. FDI in the manufacturing sector in Africa

7. In the manufacturing sector FDI accounts for roughly one quarter of the FDI stock in Africa compared to over half in the case of the FDI stock in Asia and approximately two thirds in the case of Latin America. The share of the sector in the stock of FDI in other developing regions has consistently grown over the past years. In the case of African countries, however, the share of FDI in manufacturing has remained either stagnant, and, in most cases, has actually declined over the past decade. For example, the manufacturing sector reached a high of 44.5 of the FDI stock in Nigeria in 1975 and by 1987 it had dropped to 30.1. In Kenya, the highest share was reached in 1983 at 68.7 per cent, but by 1985, it had declined to 64.3 per cent.

8. Data on the FDI flows from major home countries, namely, the United States, the United Kingdom, the Federal Republic of Germany, the Netherlands and Japan, show that with the exception of the United Kingdom, their respective FDI in the primary sector in Africa as a percentage of their total FDI increased between 1975-1987 while the corresponding share of the manufacturing sector substantially declined. For the United States, the share of the manufacturing sector in its FDI to Africa declined from 9.5 per cent in 1975 to 6.1 per cent in 1987. For the Netherlands, the share declined from 45.3 per cent to 11.4 per cent, and for Japan, the share declined from 12.0 per cent to 4.9 per cent during the same period. In the case of the United Kingdom, the share of the manufacturing sector in its total FDI in Africa increased marginally from 39.3 per cent in 1975 to 41.4 per cent in 1984 (see table 2).

9. There are however a large number of transnational corporation affiliates in Africa's manufacturing sector. Out of an estimated total number of 1,513 affiliates in Africa in the early 1980s, 580 or 38 per cent of the total were in the manufacturing sector, while half that number, that is, 299 or roughly 19 per cent were in the primary sector. It should be noted that over 50 per cent of all the transnational corporations manufacturing affiliates in Africa were concentrated in just seven countries: Nigeria, Kenya, Zimbabwe, Morocco, Zambia and Côte d'Ivoire.

Table 2. Foreign direct investment stock in Africa and developing countries from major home countries

(in millions of national currency a/ and percentage)

HOME COUNTRY	Primary		Manufacturing		Services		Other		Total	
	1975	1987	1975	1987	1975	1987	1975	1987	1975	1987
United States										
Africa	18.24	42.37	229	308	231	407	130	132	2 414	5 084
	(75.6)	(83.3)	(9.5)	(6.1)	(9.0)	(8.0)	(5.4)	(2.6)	(100)	(100)
Developing countries	4 669	19 000	10 459	21 881	8 637	40 824	2 457	2 964	26 222	84 674
	(17.8)	(22.4)	(39.9)	(25.8)	(32.9)	(48.2)	(9.4)	(3.5)	(100)	(100)
United Kingdom										
Africa	95 b/	298 c/	289 b/	968 c/	353 b/	1 072 c/	-	-	738 b/	2 338 c/
	(12.9)	(12.7)	(39.3)	(41.4)	(47.8)	(45.9)			(100)	(100)
Developing countries	439.4 b/	4 432 c/	1 163 b/	3 441 c/	810 b/	6 032 c/	-	-	2 413 b/	13 905 c/
	(18.2)	(31.9)	(48.2)	(29.7)	(33.6)	(43.4)			(100)	(100)
Federal Republic of Germany										
Africa	257 d/	569	189 d/	274	323 d/	284	-	-	769	1 127
	(33.4)	(50.5)	(24.6)	(24.3)	(42.0)	(25.2)			(100)	(100)
Developing countries	1 254 d/	1 036	6 395 d/	12 055	2 331 d/	4 615	-	-	9 480	17 706
	(12.6)	(5.9)	(64.1)	(68.1)	(23.3)	(26.0)			(100)	(100)
Netherlands										
Africa	199	1 377 c/	272	229	130	405 c/	-	-	601	2 011
	(33.1)	(68.4)	(45.3)	(11.4)	(21.6)	(20.1)			(100)	(100)
Developing countries	3 040	9 213 c/	3 332	5 130	2 231	7 653 c/	-	-	8 603	21 996
	(35.3)	(41.9)	(38.8)	(23.3)	(25.9)	(34.8)			(100)	(100)
Japan										
Africa	309	680	60	226	130	3 695	2	3	501	4 604
	(61.7)	(14.8)	(12.0)	(4.9)	(26.0)	(80.3)	(0.3)	(0.06)	(100)	(100)
Developing countries	2 740	12 360	3 760	21 042	1 638	45 590	439	2 105	8 577	81 097
	(31.9)	(15.3)	(43.8)	(25.9)	(19.2)	(56.2)	(5.1)	(2.5)	(100)	(100)

Source: United Nations Centre on Transnational Corporations based on official national sources.

a/ Except Japan, which is in US dollars.

b/ 1974.

c/ 1984.

d/ 1976.

/...

2. FDI in the non-fuel minerals in Africa

10. The performance of the mining sector in Africa illustrates the depressed state of Africa's mining industry during the 1980s. A review of the performance of some 35 minerals during the 1980s revealed that 20 of the minerals had experienced a production shortfall of up to 92 per cent against 1980 achievements.

11. From the late 1950s to the early 1970s, African countries had registered impressive performances in FDI in non-fuel minerals. Substantial FDI resources were committed to the development of large mines for copper, cobalt, iron ore, bauxite, manganese, asbestos, nickel, diamonds and phosphate in a number of African countries, such as Botswana, Gabon, Guinea, Liberia, Mauritania, Morocco, Senegal, Togo, Zaire, Zambia and Zimbabwe. But since 1970, the value of total production of 10 major minerals in Africa has declined by 2 per cent annually in real terms, as opposed to growth in the production of such minerals in Asia and Latin America. In fact, during the last 15 years, no significant FDI project (of the magnitude witnessed in the 1960s) has taken place in Africa except for Botswana. The major effect of the production decline was a drop in the growth of value-added in Africa's mining sector which in the period 1980-1985 declined by 2.5 per cent and further declined by 3.3 per cent in 1987.

12. Global FDI in mining by the Federal Republic of Germany and Japan, for which complete FDI figures on regional groupings are available, show that in both cases, their global outward FDI in the mining sector increased by more than threefold between 1976 and 1986. With respect to flows from the Federal Republic of Germany, Africa's share stagnated at around 14 per cent during the period 1976-1985, while in the case of Japan, Africa's share declined from around 7 per cent in 1976 to 5 per cent in 1986.

13. Current FDI projects in non-fuel minerals in Africa are reflected in the 1988 Annual Survey of World-wide Mining Activity, which shows that Africa accounted for approximately 8 per cent of the number of world-wide mineral projects and approximately 6 per cent of the estimated investment cost of $5.1 billion for such projects. These figures, however, overestimate the share of the African projects listed, since they include the two largest projects (Ghana's Kibi bauxite mine development and the Guinea-Liberia Mifergui iron ore project), now known to be uncertain. Of the 41 projects listed, only 15 are reported to have definite financing or to be actually under construction.

14. The mining projects in the pipeline in Africa indicate that there is virtually no transnational corporation activity in large-scale African projects in major industrial metals. The investments are heavily concentrated in gold and in other minerals with special qualities (such as uranium and titanium). Many of the ongoing projects in iron ore, copper, lead, zinc and aluminium are not being financed by transnational corporations.

3. FDI in the energy sector in Africa

15. In the area of hydrocarbons, the trend shows that Africa has been losing out when compared to the prevailing rate of development in other regions. In developing countries as a whole, there was indeed an overall decline in exploration and development activity during the 1980s.

16. In the member countries of OPEC, exploratory drilling declined from 606 wells in 1982 to 242 wells in 1986, while development drilling dropped from 2,705 wells to 946 wells during the same period. Exploratory and development drilling in the non-OPEC oil-exporting countries dropped from 455 exploratory wells in 1982 to 350 in 1986 and from 1,485 development wells in 1982 to 1,039 in 1986. With respect to Africa, only two countries, Angola and Egypt, maintained significant development and exploration activity during this period.

17. In non-oil producing developing countries, licensed areas dropped by 19 per cent, seismic activity by 30 per cent and exploratory drilling by over 50 per cent between 1982 and 1986. African countries with unproven petroleum potential were affected the most with exploratory wells dropping from 16 in 1985 to 5 in 1986. 2/

18. Lower oil prices since the mid-1980s and uncertainties about the world's financial outlook combined to substantially reduce the activities of major oil TNCs. As a result, seven major oil transnational corporations (British Petroleum, Exxon, Gulf Oil, Mobil, Royal Dutch/Shell, Chevron and Texaco) decreased their oil exploration expenditure to $4.9 billion in 1986 from $9.2 billion in 1982. Their investment in production fell from $19.6 billion to $11.3 billion during the same period. Africa took a big share of this decline. While capital expenditure by the majority-owned affiliates of American oil companies fell by less than 50 per cent between 1982 and 1986, their actual capital expenditure in Africa declined by more than 60 per cent during the same period with a marginal rise between 1987 and 1988. Signs of a weakened FDI base in hydrocarbons in Africa were reflected in a decline in the volume of oil production by the region as a whole starting in the mid-1980s, from a high of 247.5 million tons in 1985 to 246.4 million tons in 1988. 3/

19. Hydrocarbon exploration acreage continues to be awarded by African countries to transnational corporations in many areas, including the East African Rift Valley stretching from Ethiopia through Kenya, Uganda and the United Republic of Tanzania into Zambia and Zimbabwe; and across the Indian Ocean coast in such countries as Mozambique, Madagascar and the Seychelles. The greatest exploration focus in Africa, however, is concentrated on the West African Salt Basin, stretching from Liberia to Angola and, in particular, in the Gulf of Guinea, where more than 60 transnational corporations are currently exploring.

4. FDI in the service sector in Africa

20. During the last decade, the share of the service sector in the outward FDI flows of major home countries to developing countries as a group increased

significantly. Africa, however, has not benefited from the FDI boom in services. In fact, the number of affiliates or subsidiaries of transnational corporations in the main service subsectors in Africa, especially banking, insurance and transportation, declined drastically between the mid-1960s and 1970s. For example, while FDI stock in services by the United States in developing countries as a group increased from 32.9 per cent in 1975 to 48.2 per cent in 1987, the share actually declined from 9 per cent to 8 per cent for Africa during the same period. Comparable figures for the same period for the United Kingdom and the Netherlands also show a decline in the service sector share of their FDI in Africa, from 47.8 per cent to 45.9 per cent and from 21.6 per cent to 20.1 per cent, respectively. Japan was the exception with a dramatic rise in the service sector share of its FDI stock in Africa, from 26 per cent in 1975 to 80 per cent in 1987 compared to a rise from 19.2 per cent to 56.2 per cent for developing countries as a group during the same period.

21. The key service subsector with substantial FDI in Africa is tourism. Transnational corporations play a key role in international tourism. In the early 1980s, the United Nations Centre for Transnational Corporations estimated that foreign participation in the form of hotel management contracts accounted for 72 per cent of rooms in transnational associated hotels in Africa, 60 per cent in Asia, 47 per cent in Latin America and 75 per cent in the Middle East. There is no evidence that these figures have in any way changed signficantly.

22. International tourism receipts were estimated at over $US 130 billion in 1986, equal to 6.14 per cent of total world exports. Developing countries accounted for 27 per cent of international tourist arrivals in 1986, a decline of 1 per cent from the 1980 figure of 28 per cent. Africa's share of the world tourist arrivals stood at 2.6 per cent in 1986. 4/ The leading African countries in this sector are: Egypt, Morocco, Tunisia and Kenya, in that order.

23. Despite the low global share of tourism by Africa, the sector remains significant in the economies of the region. Tourism revenue in Africa was estimated at $3.6 billion in 1988 compared to $1.5 billion in 1978. The sector provides roughly 450,000 direct jobs in Africa.

B. Impediments to FDI in Africa

24. Increased foreign investment of a large magnitude in Africa will be realized only if certain fundamental conditions are established. These include higher economic growth, lower levels of debt service, more adequate supplies of foreign exchange and greater political stability. Unfortunately, Africa has not been a high achiever so far in most of these areas. African countries inherited economic structures and institutions poorly adapted to the demands of rapidly changing world markets or to the needs of industrial diversification. Most of their economies were based on the export of one or two primary commodities. The terms of trade of these commodities have rapidly deteriorated as a result of a slow-down in the global economy as well as increased protection and subsidies for domestic substitutes in the developed countries. The worsening situation of the African countries' economies has been accompanied by a deteriorating infrastructure.

25. Apart from the limitations on the general conditions noted above, Africa faces a range of structural impediments to FDI at varying levels in different countries. These include the following:

(a) Not only are incomes low and growing slowly, but in many countries the populations are too small to offer an attractive market;

(b) The low level of domestic savings in Africa, coupled with a paucity of entrepreneurs, reduces the scope of joint ventures and most non-equity forms of arrangements with foreign investors;

(c) The shortage in many countries of managerial and a wide range of technical skills leads to inefficiencies and low levels of productivity;

(d) A good infrastructure with reliable power supply, good telecommunications, adequate transportation facilities, efficient water supply and so on is vital for modern industrial enterprise. In most African countries it is lacking.

26. But to a large measure, the present levels of FDI in Africa are also a reflection of certain negative, but not necessarily correct, perceptions of Africa by potential foreign investors.

27. Despite the fact that Africa is known to be endowed with substantial riches and despite the efforts to make improvements in its investment climate, Africa remains in the eyes of many transnational corporations a region dominated by drought, famine and political turmoil. Yet the opportunities for further profitable private investment are much greater than the perceptions of potential investors would suggest.

28. The development process in Africa thus continues to be bedevilled by the negative perception that conditions are generally unattractive for foreign investment. This persists despite encouraging developments in recent years.

29. Today, over half the African countries have adopted far-reaching programmes of economic reform. Many have devalued their currencies, adopted tighter fiscal constraints, cut internal subsidies, trimmed their bureaucracies and privatized state-owned companies. They have also liberalize[d] trade and investment régimes. In adopting these measures, they have made a conscious attempt to make their business climates more attractive to foreign investors.

30. As to the stability of investment régimes, the situation has been complicated by political instability which undermines a coherent and predictable policy environment. While foreign investors are generally more influenced by economic determinants than political risk considerations, there is some evidence that American investors consider political instability as a major disincentive to investment in Africa. This raises the fundamental question whether, in the light of the overriding importance of the exogenous economic and political factors, a package of reform measures launched by a particular Government of an African country will be enough to induce investment flows. There can be no confident

answer to this question. However, this does not detract from the essential validity of the case for improving the investment régime or aggressively promoting investment in a highly competitive world.

31. In a world in which Western Europe, Eastern Europe, Asia and Latin America and, indeed, the United States and Canada are competing for foreign investment, African countries cannot adopt a fatalistic attitude towards investment flows. All appropriate measures that are within the competence and power of African Governments must be taken to improve the investment climate. But this must necessarily be reinforced by international action to counteract the negative image and perceptions that have been associated with Africa.

II. MEASURES TAKEN BY AFRICAN COUNTRIES TO IMPROVE THE INVESTMENT CLIMATE

A. Post-colonial attitudes

32. In the early years following independence, foreign investors were, apart from being viewed as extensions of colonialism, accused of engaging in various practices which were said to diminish their contributions to the host economy and sometimes resulted in their costs exceeding their benefits. These practices were said to include the evasion of controls on the repatriation of profits and the stifling of indigenous competition. Foreign investors were also seen as operating under terms of one-sided agreements negotiated with colonial masters.

33. The negative perceptions of the behaviour of foreign investors, in some cases justifiable, led several African Governments to nationalize foreign-owned companies operating in their countries during the period 1960-1974. Where there was no outright expropriation, the foreign investors were required to accept minority State participation. New foreign investment was excluded from certain strategic sectors of the economy. Instead, public enterprises and parastatal organizations became the main instrument of economic development.

B. Change in attitudes

34. During the 1980s, there was growing disenchantment with both the performance of public enterprises and the heavy burden they imposed on government coffers. The result was a reappraisal of the role of the private sector, both indigenous and foreign. Although some of the negative perceptions of transnational corporations may still persist, many African Governments came to terms with the fact that the potential benefits that can be bestowed by foreign investment were crucial to their development. These benefits have been enumerated in various reports. They include additional equity capital; transfer of technology; access to managerial skills; the creation of new jobs; and access to overseas market networks and marketing expertise.

C. Measures taken

1. Macro-economic reforms

35. The last decade saw a marked shift towards the liberalization of foreign investment régimes in Africa as a major strategy in attracting investment flows. In many countries, this development was an important component of a package of macro-economic reforms designed to fuel the recovery of troubled economies. Some of these reforms have been prompted by structural adjustment programmes sponsored by the World Bank. The general economic malaise in Africa, in particular the crushing debt problem, the acute shortage of foreign exchange and the dwindling of resource flows, the poor performance of State enterprises and the disenchantment with the somewhat illusory concept of control of the economy have led to a critical reappraisal of the role of foreign direct investment. This wave of reform has been evident in the policies of so-called radical as well as conservative Governments. In this regard, there is little difference between the main thrust of the strategies of Ethiopia and Angola on the one hand and Kenya and Côte d'Ivoire on the other.

36. The economic reform movement under way in Africa has been quite broad both in its application and extent. Although some of the reforms have brought accompanying difficulties and are in some cases politically hazardous, those countries which have implemented them seem to have reaped economic benefits. According to a recent World Bank report, such countries showed an average of 3.8 per cent annual real growth between 1985 and 1989 compared with 1.5 per cent growth in the countries without major reform programmes.

37. A sample of several African countries indicates some of the measures taken under the macro-economic reforms:

Ghana

38. In 1983, Ghana instituted an Economic Recovery Programme. Under the programme, Ghana devalued its currency, adopted tighter fiscal controls and liberalized its trade and investment régimes.

39. A 6 per cent growth of the economy in 1988 is attributable to the slow but steady recovery during the five years of the Economic Recovery Programme. An example of one of the measures taken under the Programme was the significant liberalization in January 1989 of the regulations governing access to foreign exchange. Virtually all commodities may be imported through the foreign exchange auction system. Importers may also purchase foreign exchange through FOREX bureaux which were legalized in February 1988. The bureaux represent a free and legal market in foreign exchange in which transactions are not monitored by the Central Bank.

United Republic of Tanzania

40. The United Republic of Tanzania inaugurated its Economic Recovery Programme in mid-1986. As a result of measures instituted under the Programme, the United Republic of Tanzania's gross domestic product (GDP) grew by approximately 4 per cent in 1987 and again in 1988. The measures taken under the Programme included a significant devaluation of the currency, price and interest rate increases, credit and budgetary controls, export incentives and reductions in price and trade controls.

Nigeria

41. Nigeria moved through its third year under the Structural Adjustment Programme with an economy which expanded by 4.1 per cent in 1988. The reforms taken under the Programme have included a revision of the tariff system, the creation of the Industrial Development Co-ordinating Committee (a one-stop investment centre) and a new industrial policy which should improve the investment climate. The Government has also made significant moves towards the privatization of the State enterprise sector.

42. A number of other African countries have also taken similar reform measures. Cameroon and Gabon have adopted programmes of structural reforms involving budget cuts, privatization of State-owned enterprises and reductions of internal subsidies. Senegal has liberalized its import régime, adopted a new investment code and removed government regulations on grain marketing. Sao Tome and Principe has devalued its currency, deregulated most prices and is rehabilitating its basic infrastructure. Uganda is undergoing similar reforms. The list of countries undertaking these reforms continues to grow.

43. As part of their policy of improving the investment climate, many African countries have concluded bilateral investment protection treaties with capital exporting countries. This has been reinforced by a wide accession to MIGA for the purposes of investment insurance. As many as 29 countries have signed the MIGA Convention while 18 have ratified it.

2. Liberalization of investment codes

44. Most African countries have adopted investment codes as the main investment promotion instrument. In the early years after independence, many of these codes were fairly restrictive. However, with the changes in attitudes towards FDI already noted in this report, many African countries have recently rewritten their investment codes with the objective of offering more liberal conditions to foreign investors and simplifying administrative procedures.

45. There are some variations in the way individual countries approach certain details, but the following review of a sample of African investment codes shows that they address the full spectrum of issues relating to foreign investment, from incentives and guarantees to restrictions and performance requirements.

46. From the new generation of investment codes, it seems fair to conclude that there is a definite will to modernize and reform. In general, the main measures which have been adopted as part of the liberalization process pertain to the following matters:

(a) The relaxation of restrictions on access to sectors and industries (e.g. Nigeria, Guinea, the Central African Republic);

(b) The relaxation of equity limitations (e.g. Nigeria and Ethiopia);

(c) The relaxation of régimes for repatriation of profits and capital (e.g. Ethiopia, Côte d'Ivoire, Nigeria, Guinea, the Central African Republic, Mauritius);

(d) More liberal incentive régimes (e.g. Guinea, Zaire, Nigeria, Côte d'Ivoire, Zimbabwe, Mauritius);

(e) Guarantees against expropriation and assurances of international arbitration and fair and equitable treatment (e.g. Zaire, Guinea, the Central African Republic and Angola);

(f) Privatization of State enterprise and divestiture (e.g. Nigeria, Ghana and the United Republic of Tanzania);

(g) Debt-equity swaps (e.g. Nigeria and Zambia);

(h) The reform of institutional machinery and procedures for investment (e.g. Zimbabwe and Angola).

47. Investment régimes recently established by the Governments of Guinea, Angola and Mauritius demonstrate some of the ways in which the above-mentioned measures have been introduced in different parts of the continent.

Guinea

48. The recent efforts by Guinea to attract foreign investment are especially evident in the terms of Ordinance Law No. 011/PRA/87 (the new Investment Code) which seeks to liberalize investment requirements in several ways. Thus, for instance, in contrast with the pre-existing régime, the Code now expressly allows both local and foreign private individuals and corporations to undertake commercial, industrial, mining, agricultural and service ventures in Guinea. This basic right is buttressed by legal provisions which authorize businesses established in the country to import goods essential to their operation and to determine and conduct their production, marketing and employment policies free of governmental interference.

49. In addition, under the new Code, foreign investors are now guaranteed the right to transfer, in convertible currency, any income from their investment and any proceeds from the liquidation of their operations. Significantly, however, this right is expressly made subject to basic currency regulations: a fact which

reflects the Government's justifiable concern about the state of foreign exchange flows at any point in time.

50. Another notable feature of the Code is that it mandates equal treatment of the public and private sectors in all matters pertaining to investment. Equal treatment is also guaranteed between foreigners and Guinean nationals.

51. Finally, the Code creates special tax benefits for investors whose undertakings contribute to the achievement of one or more of the priority objectives of the National Economic and Social Development Programme. These priority objectives include the development of non-traditional exports and the establishment of activities in economically underdeveloped regions. Thus, activities to be given priority include, inter alia, agricultural production, rural engineering, the production of industrial crops and fishing enterprises.

Angola

52. The Foreign Investment Act promulgated by the People's Republic of Angola in 1988 is not significantly different from the Act of 1979 which it was meant to replace. Rather, it attempts to improve the organization, functioning and monitoring of foreign investment activities to ensure that "investors will receive the profits of their investment, while the People's Republic of Angola will reach its development goals". In enacting the new law, the Government of Angola aims expressly to promote foreign investment in the country by strengthening the assurances and incentives given to investors and by simplifying the authorization process.

53. The investment code does not contemplate that all foreign companies will automatically be allowed to operate within the country. Instead, the Act specifically welcomes only investment by entities "recognized as competent and having sound technical and financial capabilities".

54. The Act also states that companies investing in Angola must, at all times, respect the country's independence and sovereignty, and it urges investors to ensure that their projects coincide with the country's social and economic goals. Beyond these strictures, however, the Act seeks to open up the economy by providing that Angola nationals need not be parties to the investment projects sponsored by foreign companies. The Act also allows foreign investors to bring in capital goods and technology as part of the investor's contribution to the capital stock of a corporation which is being established.

55. In addition, the Act specifies that all enterprises created in accordance with its provisions shall have "just and equitable treatment" together with protection and security. Further guarantees are offered as well: thus, for instance, foreign investors are assured of the right to transfer their net profits and to re-export their share of the proceeds on the sale or liquidation of particular enterprises. As in the case of Guinea and other countries, however, this right is made subject to authorization from the Ministry of Finance.

56. Under the Act, tax incentives are also offered in accordance with the prevailing fiscal law. In this regard, exemptions can be granted from income tax for a period of time. Exemptions or reductions of customs duties can also be given to entities for specific periods of time, on the importation of capital goods, accessories and replacement parts as well as on raw materials and other products that are not available in the country. Finally, there are also exemptions or custom-duty reductions on exports. It is important to note that the above exemptions and reductions are granted by the Minister of Finance on a case-by-case basis and upon request by the interested parties. Further incentives and benefits are available to foreign entities which reinvest profits in Angola or have social dimensions or involve training and employment for Angolan workers.

Mauritius

57. Mauritius is concentrating increasingly on industrialization and export. As a result, the Government has devised a number of schemes to attract both foreign and local investment in the economy. The relevant legislation creating the different schemes include the Export Processing Zones Act No. 51 of 1970, the Development Incentives Act No. 50 of 1974 and the Export Service Zones Act No. 8 of 1981.

58. Under the Export Processing Zones Act, a number of generous incentives accrue to be the benefit of investors who have enterprises in particular Export Processing Zones. So, for instance, pursuant to S.11, no duty is imposed on goods, such as machinery, equipment and spare parts, imported by an export enterprise. Further incentives include the following: (i) complete exemption from payment of import and excise duties on raw materials and components (except spirits, motor cars, petroleum products and other items deemed to be non-productive); (ii) payment of a nominal rate of 15 per cent corporate tax during the whole life of the company; (iii) exemption from the payment of income tax on dividends for the first 10 years; (iv) free repatriation of capital (excluding capital appreciation) profits and dividends; (v) electric power at preferential rates; (vi) loans, investment and export finance at preferential rates from the Development Bank of Mauritius; (vii) eligibility under the Export Credit and Export Insurance Guarantee Schemes operated by the Development Bank of Mauritius; (viii) allowances in respect of new investments in manufacturing companies, in buildings machinery and equipment; (ix) availability of factory buildings on lease/rent within serviced industrial estates; (x) exemption from payment of half the normal registration fee on land and buildings by new industrial enterprises; (xi) the issue of residence permits to promoters and shareholders according to the size of their investment and the degree of technological input in the country; (xii) favourable labour legislation to assist enterprises to meet their objectives; and (x) a guarantee against nationalization.

59. The incentives granted in the 1970 Act have been reinforced by provisions in the Development Incentives Act (1974) and the Export Service Zones Act (1981) respectively. More particularly, by virtue of the 1974 Act, companies which are deemed to contribute to development obtain tax relief for a period of up to five years starting from the date of production. At the same time, benefits which eligible enterprises obtain under the 1981 Act include: (i) a nominal rate of corporate tax of 15 per cent during the life time of the company; (ii) income tax

at a rate of 10 per cent every year and exemption from the payment of income tax on dividends for the first 10-year period: S.10 of the 1981 Act; (iii) free repatriation of capital (excluding capital appreciation) and remittance abroad of profits and dividends with the approval of the Bank of Mauritius; and (iv) complete exemption from the payment of duty on machinery, equipment, spare parts and goods for re-export: S.11 of the 1981 Act.

60. Finally, in 1984 the Government of Mauritius promulgated the Development Incentives Act of 1984, establishing the Mauritius Export Development and Investment Authority (MEDA). The main functions of MEDA are to promote the export of goods and services from Mauritius and to engage in activities designed to promote Mauritius as an attractive base for the establishment of manufacturing industries and services. MEDA also develops and operates industrial estates and implements various programmes for the development of export-oriented activities. It also advises the Minister on all matters relating to export and investment promotion and generally serves as a sophisticated focal point for commercial activities in the country.

III. FDI OPPORTUNITIES IN AFRICA

61. While foreign direct investment opportunities in Africa are limited by a number of economic factors which have been enumerated above, it should be emphasized that the pervasive negative perception of Africa seems to have eclipsed the not inconsiderable foreign direct investment opportunities in Africa. This chapter attempts to highlight a few of these opportunties.

62. Disparities exist between African countries in terms of natural resources endowment, population, entrepreneurial and institutional capabilities, market size, social and economic infrastructure, political stability and respective FDI policies. This state of heterogeneity inevitably creates differences in the FDI potential and attractiveness of individual African countries as well as the nature and scale of FDI operations in sectoral terms.

63. With the above consideration in mind, the opportunities for FDI in Africa can be reviewed under the following subheadings:

A. Sectoral and subsectoral FDI opportunities

1. The mining sector

64. There are considerable FDI opportunities in Africa's mineral sector. Africa's mineral potential has been described as follows:

> "Geologically, Africa's mineral potential is equal to, if not greater than, that of other continents. West Africa, for example, is geologically similar to Brazil, where there has been a mineral boom - especially in gold, tin, and iron ore - during the past 20 years. The southern African countries have much in common geologically with South Africa, where mineral production

increased strongly in the 1970s and 1980s. Evidence suggests that Sub-Saharan Africa has potential for high-value minerals - gold, diamonds, and other gemstones; industrial minerals; and rare earths. These can be developed over relatively short periods, without the massive investments for infrastructural support required for bulk minerals.

"Botswana's diamond deposits are among the richest in the world. Guinea has some of the world's highest-quality bauxite reserves, and its iron ore deposit at Mifergui Nimba is exceptionally high grade. Ghana has considerable potential in gold, as do other countries (such as Burkina Faso, Mali, and Sudan) in the precious metals. Another major gold belt has recently been found in southern Ethiopia, while western and northern Ethiopia contain promising mineral belts that have been barely explored. Zimbabwe has platinum potential. The copper ore in Zaire and Zambia is generally three to four times higher grade than that in North America and is frequently rich in cobalt. Zaire not only has copper reserves sufficient for 40 years, but has the world's richest undeveloped copper deposits at Tenke and Fungerume." 5/

65. The 1950s and early 1970s were periods of growth for the African mining sector. But the late 1970s and the 1980s saw African production of 10 major minerals declining by 2 per cent annually in real terms. There has been little interest in new foreign investment in the mining sector in Africa, and State mines have not been able to mobilize the funds necessary to maintain a steady growth of production. The reasons for the low level of foreign investment can be traced to the early 1970s when State control of or interference with the large mining ventures progressively increased and resulted in many of the mining transnational corporations showing preference for countries where the investment climate was more conducive - such as Australia, Canada, Papua New Guinea and Brazil.

66. All this has led African countries to rethink their roles and policies for the mining sector. Measures have been taken to create an attractive investment climate by liberalizing foreign exchange régimes, offering tax incentives, guaranteeing repatriation of profits and providing a regulatory framework which is explicit, coherent and broadly in line with industry standards world wide.

67. The story of the changes in Ghana's mining sector policies is particularly instructive in this regard. In the 1970s, Ghana promulgated a policy of asserting effective control of the mining sector. This took the form of acquiring majority equity interest in all foreign-owned mining enterprises in the country, imposing a rigorous fiscal régime for joint ventures in the sector and stipulating mandatory foreign ownership in all future mining undertakings. Within the framework of the country's recent macro-economic reforms, there has been a radical reversal of the old policy.

68. The Government now actively encourages foreign investment in the mining sector with a liberal mineral régime which not only assures attractive incentives to mining companies but also establishes a coherent institutional framework for dealing with mining investment.

69. The Minerals and Mining Law, 1986 removes the previous limitations on foreign equity holdings and no longer stipulates the requirement of majority government ownership of mining joint ventures with foreign investors. A Minerals Commission, composed of qualified technocrats, has been charged with negotiating the terms and conditions of particular mining agreements. The Mining Code provides a range of fiscal incentives, including depreciation or a capital allowance of 75 per cent of the capital expenditure incurred in the year of investment and 50 per cent in subsequent years, an investment allowance of 5 per cent, and exemption from import duties in respect of plant, machinery and equipment and from certain forms of tax impositions. Provision has been made for the retention of a foreign exchange external account for the purpose of acquiring spare parts and other inputs for the mining operations. The Code also expressly provides for international arbitration of disputes between the Government and the foreign investor. According to a recent report of the World Bank:

> "The government's new approach is already paying off. Gold production is expected to reach about 400,000 ounces in 1989 - about 50% above the 1983 low point. In mid-1988 Southern Cross Mining, owned 70% by private investors and 30% by the State Gold Mining Company, opened the first new gold mine in Ghana in more than 40 years, and production is currently running at about 36,000 ounces a year and is likely to expand. Three other mines - Canadian Bogosu Resources, Ghanaian Australian Goldfields, and Teberebie Goldfields - each owned 90% by the private sector and 10% by the government, are expected to begin operation in the next two years. Other new gold mines are in various stages of exploration and planning. Finally, Ashanti Goldfields, another private sector-government joint venture and the largest and most profitable gold mining company in Ghana, has almost completed a major expansion to increase its mostly underground production from 280,000 ounces in 1987 to 400,000 ounces a year by 1991. It is also about to start a second expansion project to produce an additional 100,000 ounces a year from surface deposits by 1993. By that time Ghana's gold production could exceed 1,000,000 ounces a year and will continue to grow into the next decade". 6/

2. The petroleum sector

70. The proven reserves of petroleum in sub-Saharan Africa at the beginning of 1989 were estimated at 20.5 million barrels or 2.3 per cent of the world total, most of which is located in the Gulf of Guinea. However, it is widely believed that important deposits remain to be discovered in the largely unexplored areas in other parts of Africa. A good example is the East African Rift Valley area where exploration has been modest so far, although interest has been picking up in the recent past.

71. Exploration in sub-Saharan Africa has lagged behind other regions of the world. For example, in 1987, a total of 2,303 wells were drilled in Latin American compared to a mere 237 in sub-Saharan Africa. This small number is not an indicator of the perceived chances of success. The success rate in Africa has been good. In the Gulf of Guinea, there has been one discovery for every 2.5 exploratory wells as compared with a world average of one for every 5.6 wells.

72. The low rate of exploration has been a result of a combination of factors. The period between the end of 1980 and the middle of 1986 was a turbulent one for the petroleum industry world wide. It saw an extraordinary high price for crude oil in 1980 and then a decline in prices that ended in the spectacular crash of oil prices. The price increases of the 1970s engendered basic structural changes involving increased energy efficiency. Thus, world production capacity started exceeding demand. The result was that oil companies began exercising more discretion in their investment strategy, selecting only areas of maximum favourability. Incentives to stimulate investment in the face of the low prices became necessary.

73. The key elements for creating an attractive investment climate for petroleum exploration are similar to those for mining discussed earlier. In addition to ensuring that they are in place, African countries have rewritten their petroleum legislation and restructured their Model Agreements to provide such specific incentives as the following:

(a) Changes in the production sharing ratio favourable to companies;

(b) Low governmental participation - in some countries participation has been eliminated in new grants;

(c) Lower tax rates;

(d) Revision of price caps (Angola employs this system, which grants the Government 100 per cent of any revenue received over a certain price per barrel. The price cap was $US 13/barrel. This was raised in 1986 to $US 20/barrel plus inflation index);

(e) Seismic options.

3. The manufacturing sector

74. In the manufacturing sector, Africa has endorsed an Industrial Development Decade under the Lagos Plan of Action for the development of core and strategic industries in the following order: (a) food and agro-based industries; (b) metallurgical and engineering industries to produce machinery, tools, spare parts, and so on; (c) building materials and construction; (d) energy and energy related industries; (e) chemical industries including fertilizers, pharmaceuticals and pesticides; (f) electrical and electronics industries; (g) forest-based and textile industries; (h) transport and communications related industries; and (i) engineering, repair and maintenance services.

75. The International Development Decade for Africa anticipates substantial foreign involvement in the development of the above industries. For example, it has been estimated that the establishment of the required range of core and strategic industries in Africa will involve a capital investment of $140 billion of which 60 per cent is expected to be mobilized from external sources. Many African countries, however, have tended to be less attractive to transnational corporations

in the core and strategic industries, since such operations require high economies of scale in order to generate a good rate of return on investment. But the sector provides FDI opportunities in the context of the International Development Decade, even if not all the key industries will have an equal chance of attracting such external investment.

76. There is evidence of interest in FDI opportunities in the manufacturing sector in Africa. For example, investment in chemicals and pharmaceuticals have recently taken place in Côte d'Ivoire and Zimbabwe, while a full-scale visit to Nigeria in January 1989 by American businessmen identified at least 50 projects for investment in various subsectors, including light manufacturing.

B. Opportunities arising from the rehabilitation and privatization programme

77. One category of FDI opportunities is the rehabilitation of existing industries in Africa. This is aimed at facilitating an optimal utilization of existing assets and installed production capacity, which is crucial to Africa's economic recovery and growth prospects. Many of the enterprises involved are light industries, mainly in the areas of beverages and agro-based industries, textile industries, shoes and leather products, wood, cigarettes, manufacturing, building materials, farm implements, steel rolling mills and assembly plants for a variety of consumer durables and non-durables.

78. A second category of FDI opportunities in Africa lies in the ongoing process of privatization, which African countries increasingly are implementing. Available data shows that some 80 State enterprises in Africa had been privatized by 1988, and an additional number of 184 enterprises of which 124 are in Nigeria are presently in the process of being privatized. Ghana has also listed 32 domestic State enterprises for privatization. These figures do not include Angola, which may also be considering some form of privatization for many of its State enterprises. Some of the other countries so far involved in large-scale privatization include Guinea, Togo, Côte d'Ivoire, and Uganda.

79. For small transnational corporations and those from developing countries, which have fewer possibilities in large economies, Africa provides an added attractiveness.

IV. ADDITIONAL STRATEGIES TO ENCOURAGE TRANSNATIONAL CORPORATIONS TO RESPOND POSITIVELY TO THE IMPROVED INVESTMENT CLIMATE IN AFRICA

80. As is evident from earlier sections of this paper, transnational corporations have not, on the whole, responded with great enthusiasm to the legislative and other changes which have recently been implemented by various African Governments. This prompts the question whether there are any further measures or strategies which may be attempted by the relevant authorities to enhance the level of foreign direct investment in Africa at the present time. In addressing this question, it

may be useful to reiterate, from the outset, some of the basic reasons for the limited flow of investment capital to most African States, for this may provide general guidance on possible courses of action.

81. Broadly speaking, the factors that account for the rather modest volume of FDI flows to Africa reflect the traditional considerations that influence the investment decisions of transnational corporations. It has been demonstrated that the main determinants of FDI are economic, namely: the demand prospects for the targeted market whether local or external and its potential for growth, natural resource endowment and cost considerations. A prospective host country that satisfies the above criteria will attract FDI, provided it has a reasonably stable investment régime.

82. On these criteria, African countries like other low-income countries can hardly be competitive in attracting FDI. It is true that Africa is endowed with substantial natural resources. However, the domestic market for manufacturing or agricultural products is severely limited, with little prospect for growth outside of the proposed regional integration schemes. Africa's economic performance has been poor having experienced a recession and prolonged stagnation until the last few years. The prospects for growth have not been promising, although there are indications of an upturn at the present time.

83. Other factors which tend to limit Africa's attractiveness to foreign investors may also be mentioned. In the first place, for a variety of well-known historical and political reasons, some African countries still possess economic structures and institutions which are not adequately adapted either to the requirements of rapidly evolving international markets or to the demands of industrial specialization. Among other things, the technological base is extremely weak, and there are significant gaps in skills and know-how. Not only that, with widespread illiteracy and limited educational opportunities in general, the potential for improving the calibre of the work force is quite limited. In addition, partly because of its limited capital base, Africa suffers from a shortage of indigenous entrepreneurs who could enter into risk-sharing operations with foreign investors.

84. The difficulties faced by particular African countries also tend to demonstrate why the region is comparatively unattractive to foreign investment. For instance, a number of States on the continent have suffered traumatic civil and political unrest in the recent past; such States will need to undertake special efforts to reassure investors that they can now provide a safe and secure haven for foreign capital. Likewise, while the severe drought in the Sahel and elsewhere was a primary focus of international attention during the last decade, it should not be forgotten that individual African countries have other intractable problems of geography which act as a significant deterrent to capital growth. For instance, it is safe to assume that transnational corporations will be slow to invest in several of the 14 land-locked States in Africa precisely because these States lack direct access to foreign markets.

85. Such problems, together with others, including the negative perception Western investors tend to have concerning Africa as a whole, combine to create a rather unpromising situation. Nevertheless, the picture is not altogether dismal for, as

the recent liberalizing efforts themselves demonstrate, there is an increasing will on the part of African leaders to improve the prospects for foreign direct investment to the continent. In other words, although the present catalogue of problems suggests that an over-optimistic outlook would be highly unjustified, it does not require policy makers to operate in an atmosphere of absolute despair. Against this background, the following proposals, which are additional to measures already in place, may merit future consideration.

A. Comprehensive economic reform

86. Since one of the key determinants of the volume and location of international investment is the long-term economic status of the host country, African Governments would be well-advised to undertake comprehensive measures to enhance their growth and development prospects. This, of course, is more easily said than done, but it is not an impossible task. The elements of fundamental macro-economic reform in Africa should include the following: more efficient agricultural production, increased levels of domestic savings and investment, enhanced productivity, the improvement of infrastructure and a new attitude towards indigenous enterprise. In addition, as has been emphasized in a recent World Bank study, Africa will not achieve its full potential without reforms in its governmental structure. More particularly, it is agreed that Governments should take measures at every level to improve the performance of public administration and parastatal enterprises: steps in this direction have already been initiated by several countries, including Ghana, Guinea and the Central African Republic, and it is to be hoped that others will follow suit. In this regard, measures should also be taken to ensure that individuals within the bureaucracy are kept fully apprised of changes in investment policies and that they actually take active steps to implement the relevant policies with efficiency and competence.

87. As part of the reform process, certain African countries may also need to take further steps to ensure that their laws and regulations are fully compatible not only with the letter but also the spirit of their newly introduced investment promotion legislation. In particular, some critics have argued that the liberalization policies are sometimes undermined by foreign exchange controls, tax regulations and labour restrictions which are a legacy of the period when investment promotion was not a matter of high priority. There may be some debate about the extent to which this criticism is actually true, but it is not of paramount importance. The main point is that the perception that the foreign exchange and other laws are not consistent with investment promotion should be countered with vigour and determination; among other things, therefore, the States concerned may consider redrafting the relevant laws to provide clarification and, at the very least, their representatives should seek to explain to potential investors the proper relationship between the new liberal policies and the overall legal and economic régimes in force in the country.

88. Two further points may be noted in the present context. In the first place, the Centre does not take the view that comprehensive macro-economic reforms need to take particular forms or follow specific, well-known models. It is clearly the prerogative of each Government to determine the pace, nature and extent of reform

and the main objectives of the reform process, taking into account local, social and political realities. The point for emphasis is only that without basic reforms and enhanced economic growth, most African States will not be able to attract and retain substantial infusions of capital from transnational corporations. Secondly, it should be acknowledged that the relationship between capital inflows and macro-economic reforms is hardly a straightforward matter. For instance, while it is true that reforms should stimulate interest among investors, it is equally true that investments will be necessary if reforms of a lasting character are to be introduced. Initially, therefore, an important challenge will be for policy makers to implement effective reform measures which will serve to inspire investor confidence but which will not themselves require heavy public expenditure.

B. Access to markets

89. A matter of considerable importance to transnational corporations is whether they have access to the domestic markets in which they operate. In their view, freedom of entry into any sector and non-discrimination between foreign and domestic investors allows unfettered access and would leave investment decisions to the discretion of investors, rather than Governments. At the present time, however, a significant number of African countries still maintain that particular areas of their economies should not be open to foreign investment: in some of these countries, investment in certain areas is completely prohibited, while in others, special governmental approval is required for particular types of investment. For instance, in Madagascar, such activities as banking, mining and oil exploration and exploitation are reserved for the State, while in Burkina Faso, certain activities, including mineral exploration, may be carried out by foreign investors only in certain circumscribed circumstances.

90. In order to enhance foreign investment levels, the African countries which adhere to this restrictive approach may need to examine whether all their present barriers are strictly in the national interest. In so doing, they could bear in mind that a number of their counterparts have already sought to "open-up" new areas to foreign capital. Thus, for example, several countries, including Togo, Côte d'Ivoire, Senegal and Malawi, are actively seeking foreign investors to take over or become partners in enterprises which are currently State monopolies. By the same token, Mauritius now adheres to an extremely generous régime which has no specific barriers on areas open to foreign capital.

91. In the present context, recent liberalization measures taken by the Government of Nigeria merit special attention. For some time prior to the formulation of its new Industrial Policy of 1989, the Government pursued an active indigenization programme which was designed to ensure that most sectors of the economy were kept within the control of Nigerian nationals. Now, however, this policy has been revised, and consequently, most enterprises have been declared open to Nigerian or foreign participation on an unrestricted basis. Limitations on foreign participation in the areas of banking, insurance, petroleum prospecting and mining still remain, and there is a list of activities which is subject to special rules; but otherwise, foreigners currently have full access to the Nigerian economy. At the same time, as part of the desire to revive private investment generally, and

based on the assumption that private enterprise is usually more efficient than the public sector, the Government has also begun to commercialize major public enterprises and privatize minor ones. Significantly, the Government has adopted the view that even infrastructure built and controlled by the public sector can be managed by private entrepreneurs. Hence, for instance, a privately owned power company serving the Jos Plateau now sells electricity to the National Power Authority of the central government. Measures of this type may well be considered by other countries which wish to enhance investment levels at this time.

92. In supporting greater access to markets, however, the Centre takes the view that there may still need to be sectors which are closed to foreign investors. Once again, it is clear that the policy adopted in each country should depend on the views of the political authorities, based on their assessment of the needs of the country at any particular point in time. However, it would certainly be understandable if Governments chose to retain limits on entry into sensitive political sectors, public utilities and socially important areas which, but for government intervention, would probably be ignored by private investors because they are not likely to produce a competitive rate of return on capital invested.

C. Greater regional integration

93. At the present time, there are more than 200 organizations for regional co-operation in Africa; more than 160 are intergovernmental and the rest non-governmental, but most receive government support. However, politicized appointments, the reluctance to give power to regional executives and the failure of most Member States to grant priority to regional issues have reduced the effectiveness of these institutions. As a result, progress towards economic integration has been quite disappointing, with the share of intraregional trade still at the level it was over 20 years ago. Against this background, it may seem somewhat impractical to place heavy emphasis on regional integration in the process of attracting foreign investment. Nevertheless, this approach should still be recommended to Governments throughout Africa.

94. It is widely accepted that, with greater regional integration, each individual State will have an increased market for particular goods. This will be especially true where economic integration is accompanied by specialization on the part of the individual Member States. If regional markets can be assured, there is every likelihood that transnational corporations will become more interested in the continent, for, as has already been noted, one of the problems countries now face is that their individual economies are not sufficiently large to justify significant inflows of capital. For another, since market integration is likely to involve the removal or reduction of various tariff and non-tariff barriers to trade, the costs of production for regional markets will be reduced, a fact which can only increase the attractiveness of the area to potential investors.

D. Streamlining administrative procedures

95. A major obstacle to foreign direct investment in Africa has been the procedure for granting approval or authorization of foreign investment proposals. The authorization process has been critized as being excessively tedious and cumbersome, and it is often said that bureaucratic delays lead to significant increases in costs to investors. In response to such criticism, most African investment codes have sanctioned the establishment of investment promotion agencies to process and facilitate the approval of investment proposals. In theory, this development should accrue to the benefit of investors, but careful monitoring will be needed to ensure that such agencies are useful in practice.

96. As a first step, the countries concerned should ensure that officials in the agencies represent all the relevant government ministries and that they possess significant experience and expertise in such areas as industry, trade, finance and administration. At the same time, the relevant rules pertaining to investment approval should be formulated in clear and unequivocal terms so that officials in investment agencies have little room for discretion; this will reduce opportunities for corrupt activities and ensure that the investment liberalization scheme is operated with fairness and consistency.

97. Above all, however, emphasis should be placed on the need for decisions to be made with great speed. At the present time, there are countries in which investment approval procedures normally take over one year to run their course, and in one well-documented case, the time period involved exceeded three years. Even if "one-stop" agencies are established and clear guidelines are introduced for the benefit of potential investors, it is unlikely that investors will remain interested when the approval procedure is unnecessarily time-consuming.

E. Building industrial capability

98. An effective way of raising productivity and increasing overall production levels is by improving technical and managerial capability. In that connection, there is a dire need for mid-level technical and supervisory skills in most African countries. To rectify the situation, local managers should be given more responsibility for decisions, while skilled technicians should be encouraged to adapt product design, equipment and production processes to local needs. African investment codes and policies could make provisions for such changes.

99. In addition, training institutes should be established and managed by individuals with practical skills in areas such as manufacturing, industry and banking. On-the-job training should also be encouraged, and relevant Governments should consider removing constraints on the employment of expatriates where such constraints reduce the overall level of productivity in the economy. This may involve a greater willingness to grant work permits to foreigners where it is clear that no appropriately qualified nationals are available for particular positions, and the introduction incentive measures to attract highly skilled foreigners. As part of the strategy of building industrial capability, careful attention should

also be paid to the role of indigenous entrepreneurs throughout the continent. It has already been noted that indigenous enterprise is still in its formative stages, and hence, special measures are needed to improve the situation. Generally speaking, entrepreneurs in Africa have limited access to local funds, very few market incentives and are often subject to unnecessary regulatory constraints.

100. Therefore, the measures which may be contemplated in this area include market incentives, access to government credit at concessionary rates of interest and import and tariff incentives for companies with majority local ownership. At the very least, however, investment codes should seek to ensure that local entrepreneurs are not placed at a disadvantage vis-à-vis foreign investors when incentives are being offered.

F. Investment promotion strategies

101. The creation of liberal economic régimes for attracting capital can represent only a starting point in the development strategy of the various African countries. Another important step must be to advertise the existence of the régimes and to ensure that potential investors are fully informed of the benefits to be derived from investing in the particular environment. Accordingly, there is a clear need for African policy makers to adopt aggressive marketing strategies in metropolitan capitals and in other centres of investment financing. Those responsible for implementing the promotional effort should be both highly trained in the field of economics and possess a broad range of experience pertaining to the operation of the investment régime in the country concerned.

102. As part of the approach as well, individual countries could consider enlisting the services of international agencies which have experience and expertise in dealing with transnational corporations. Such agencies could assist not only in the identification of local projects which may be of interest to foreign investors, but also in the assessment of various proposals for foreign investment schemes offered by different companies. In this regard, it may be noted that the Centre has already offered technical assistance to one African Government in identifying projects which may be attractive to transnational corporations, and it stands ready to offer similar services to other Governments in accordance with their individual needs. The Centre and other agencies could also be called upon for assistance in the formulation of project proposals from Governments to particular companies and in highlighting the different linkages from which certain forms of investment may stand to benefit.

103. Finally, in promoting their new regimes, African Governments should remain cognizant of the need to combat negative perceptions concerning the overall investment climate on the continent. Again, in this respect, African countries, as a whole, should take advantage of the contacts and expertise available to them through various international agencies. Thus, for instance, it should be appreciated that countries which have positive links with United Nations agencies in general, and the World Bank, in particular, are less likely to be regarded as risky areas for foreign investment than countries which remain somewhat isolated from the United Nations system. By the same token, African countries should be

constantly aware that foreign investors sometimes attach significance to misleading reports about the region in the electronics and print media. The countries concerned should, therefore, develop means of responding readily to reports which could adversely affect perceptions about their attitudes to foreign investment.

V. CONCLUSION

104. Throughout this paper, emphasis has been placed on those countries which have recently adopted liberal investment régimes in order to attract foreign capital. It has been argued that although liberalization may be necessary to improve the investment climate in Africa, it is not on its own a sufficient basis for enhancing investment. Accordingly, after reviewing the recent economic initiatives which have been adopted in a sample of African States, the paper considers a number of broad measures which Governments may adopt to further improve their position as host countries for foreign investment. However, even at this late stage, it needs to be repeated that although foreign investment is critical in the development process, not all forms of foreign investment are inherently positive in their effects. Consequently, particular investment projects still need to be closely monitored by the Governments concerned to ensure that they result in benefits not only for the investor, but also for the country.

Notes

1/ Report of the Secretary-General on investment of transnational corporations in Africa (A/43/500/Add.2).

2/ Report of the Secretary-General on energy exploration and development trends in developing countries (A/43/476 and Corr.1).

3/ Official Records of the Economic and Social Council, 1989, Supplement No. 16 (E/1989/35).

4/ United Nations, Negotiating International Hotel Chain Management Agreements (United Nations publication, forthcoming).

5/ World Bank, Sub-Saharan Africa: From Crisis to Sustainable Growth (Washington, D.C., 1989), p. 122.

6/ Ibid., p. 127.